

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

DESHAWN L. HUNTER,

Petitioner,

V.

UNITED STATES OF OHIO,

Respondent.

CASE NO. 5:07 CV 3111

JUDGE SOLOMON OLIVER, JR.

MEMORANDUM OF OPINION
AND ORDER

On October 10, 2007, petitioner pro se DeShawn L. Hunter filed the above-captioned petition for writ of habeas corpus under 28 U.S.C. § 2254. Hunter is incarcerated at the Belmont Correctional Institution, having pleaded guilty to attempted trafficking in cocaine in December 2006. For the reasons stated below, the petition is denied and this action is dismissed.

A federal court may entertain a habeas petition filed by a person in state custody only on the ground that he is in custody in violation of the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2254(a). In addition, petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254(b).

As grounds for the petition, Hunter appears to challenge the search that resulted in his arrest and prosecution. Without regard to the potential merits of this assertion, it is evident on the face of the petition it has yet to be raised and exhausted in the Ohio courts. The petition is thus premature.

Accordingly, this action is dismissed without prejudice pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the Court certifies, pursuant to 28 U.S.C. §

1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. Fed.R.App.P. 22(b); 28 U.S.C. § 2253.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

December 17, 2007